

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
DALE M. MADDEN, INC.,

Appellant,

V.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 80-61

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, the appeal from the issuance of a \$250 civil penalty for the alleged violation of Regulation I came before the Pollution Control Hearings Board, David Akana and Nat W. Washington (presiding) at a formal hearing in Seattle, Washington, on October 2, 1980. Appellant was represented by its secretary Donna V. Madden; respondent was represented by its attorney Keith D. McGoffin.

Having heard the testimony, having examined the exhibits, and having considered the contentions of the parties, the Board makes these

1 FINDINGS OF FACT

2 I

3 Respondent, pursuant to RCW 43.21B.260, has filed with the Board a
4 certified copy of its Regulation I containing respondent's regulations
5 and amendments thereto.

6 II

7 This matter is an appeal from a \$250 civil penalty for outdoor
8 burning allegedly in violation of respondent's Regulation I Section
9 8.02(3) and 8.05(1). Section 8.02(3) provides that it shall be
10 unlawful for any person to cause or allow any outdoor fire containing
11 garbage, dead animals, asphalt, petroleum products, paints, rubber
12 products, plastics or any substance other than natural vegetation
13 which normally emits dense smoke or obnoxious odors.

14 Section 8.05(1) provides that it shall be unlawful for any person
15 to cause or allow any outdoor fire other than land clearing burning or
16 residential burning without prior written approval having been issued
17 by the control officer or board.

18 III

19 On or about the 29th day of January, the appellant, Dale M.
20 Madden, Inc., knowingly and intentionally caused or allowed an outdoor
21 fire at its maintenance and construction site located at 220-18th
22 Avenue SE, Bellevue, Washington, for the purpose of burning scrap
23 lumber, without prior written approval having been issued by the
24 control officer or board of the Puget Sound Air Pollution Control
25 Agency (PSAPCA).

1 IV

2 The fire was burning in two fifty-five gallon steel barrels, and
3 contained wood scraps.

4 V

5 The fire caused light-gray smoke which was not dense and did not
6 emit obnoxious odors.

7 VI

8 Respondent's inspector arrived at the site of the fire and
9 observed its nature and content as described above. The appellant
10 later received a formal notice of violation citing violation of
11 respondent's two regulations set forth above and imposing a civil
12 penalty in the amount of \$250.

VII

14 The appellant has had two previous violations. One violaton was
15 in 1971 for burning debris after its permit had expired. The other
16 was in 1977 and was also for burning without a permit.

17 VIII

18 There was not sufficient evidence to establish that the fire
19 contained any creosote as alleged which is one of the materials
20 prohibited by Section 8.02(3).

21 IX

22 Any Conclusions of Law which should be deemed a Finding of Fact is
23 hereby adopted as such.

24 From these Findings the Board comes to these
25

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27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW & ORDER

CONCLUSIONS OF LAW

I

The appellant violated Section 8.05(1) by failing to secure priorwritten approval from PSAPCA.

II

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adotped as such.

From these Conclusions the Board enters this

ORDER

The \$250 civil penalty is affirmed, provided, however, \$125 of the civil penalty is suspended on the condition that appellant not violate respondent's regulations for a period of one year after this order becomes final.

DATED this 17th day of October, 1980.

POLLUTION CONTROL HEARINGS BOARD

Nat W. Washington
NAT W. WASHINGTON, Chairman

David Akana
DAVID AKANA, Member